



August 11, 2003

Via Facsimile: (202) 366-3753

Dockets Management System
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, DC 20590-0001

Re: Docket No. RSPA-03-15327 (HM-206B)

Dear Sir or Madam:

The American Trucking Associations, Inc. (“ATA”) is pleased to submit the following comments in response to the Research and Special Programs Administration’s (“RSPA”) Notice of Proposed Rulemaking entitled “Hazardous Materials: Changes to the Hazard Communication Requirements, Including Revision of Design of Labels and Placards for Materials Poisonous by Inhalation (PIH),” 68 *Federal Register* 34880 (June 11, 2003).

ATA is the trade association representing the American trucking industry.¹ As the national representative of the trucking industry, ATA is vitally interested in matters affecting the nation’s trucking fleet, including the implementation of requirements affecting the transportation of hazardous materials. For this reason, ATA has an interest in the Proposed Rule.

ATA strongly supports RSPA’s stated goal “to improve safety of emergency responders and the public, and of offerors and transporters of hazardous materials.”² As such, we support most of the changes envisioned in the Proposed Rule.

¹ ATA is a united federation of motor carriers, state trucking associations, and national trucking conferences created to promote and protect the interests of the trucking industry. Its membership includes more than 2,000 trucking companies and industry suppliers of equipment and services. Directly and through its affiliated organizations, ATA encompasses over 34,000 companies and every type and class of motor carrier operation.

² 68 *Federal Register* 34880 (June 11, 2003).

A. HM-232 Security Plans – Designation of Select Agents

Following publication of RSPA’s final rule requiring motor carriers that transport certain “select agents” to develop security plans, ATA raised the issue that motor carriers do not have the ability to determine whether a particular package contains a select agent unless that fact is communicated by the shipper. As such, we applaud RSPA for promptly addressing the issue and proposing to require each person who offers a select agent for transportation to include the words “Select Agent” in association with the basic shipping description on the shipping paper that accompanies the shipment.³

B. Organic Peroxide Identification Marking

RSPA proposes to add a new requirement to display the identification number on a transport vehicle or freight container containing placarded amounts of temperature-controlled, organic peroxide.

For any quantity of an organic peroxide, temperature controlled material required to be placarded in accordance with the requirements in § 172.504(e), Table 1, the identification number specified for the material in § 172.101 table must be marked on each side and each end of a bulk packaging, unit load device, transport vehicle, freight container, or rail car, as specified in § 172.332.

68 *Federal Register* at 34890/3 (*proposed to be codified at* 49 CFR § 172.336(b)(2)). The purpose of the new requirement is to assist emergency responders in determining the appropriate response when there is an incident involving temperature-controlled organic peroxides and the shipping paper describing the material is otherwise unavailable. While we recognize the logic behind such a requirement, it is one that the trucking industry will have great difficulty complying with.

Motor carriers are required to train their hazardous materials employees. They take this responsibility seriously and are concerned that they will not be able to train their drivers to distinguish between organic peroxides that do not require the identification marking and those that do. Temperature-controlled organic peroxides represent an infinitesimally small percentage of the cargo transported by motor carriers. Drivers are not likely to see this material with any regularity and thus the proposed requirement will be difficult to comply with. In the face of this potential non-compliance issue and recognizing that the transportation of this particular material represents a negligible amount of the cargo transported, motor carriers may choose not to accept these materials for transportation.

³ See 68 *Federal Register* at 34887/3, 34890/1 (*proposed to be codified at* 49 CFR § 172.203(p)).

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If you have any questions concerning these comments, please contact the undersigned at 703-838-1910.

Respectfully submitted,

/s/

Richard Moskowitz
Regulatory Affairs Counsel
American Trucking Associations